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CLERK
UNITED STATES BANKRUPTCY COURT
SAN JOSE, CALIFORNIA

FRANCISCA DELGADO and
MAGDALENA CEJA

"In Pro Per"

1049 BELLHURST AVE

San Jose, CA 95122

Tel: (408)993-9463

Tel: (408)278-1936

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
(San Jose)**

In re FRANCISCO DE ALBA)

MARIA SOCORRO DURAN,)

Aka MARIA D. JAUREGUI)

Debtors)

FRANCISCA DELGADO)

AND MAGDALENA CEJA)

PLAINTIFFS,)

VS

FRANCISCO DE ALBA AND)

MARIA SOCORRO DURAN)

Aka MARIA D. JAUREGUI)

DEFENDANTS,)

BK CASE NO. 10-60167

CHAPTER 7

ADV. PROC. NO. 11-5001

NOTICE OF MOTION AND

MOTION FOR ORDER

COMPELLING RESPONSE TO

INTERROGATORIES

AND FOR MONETARY

SANCTION, SUPPORTING

DECLARATION OF FRANCISCA

DELGADO AND MAGDALENA

CEJA, AND MEMORANDUM

Date: October 14, 2011

Time: 2:00 PM

Dept: 3070

Judge: NOVACK

Action filed: January 03, 2011

To: Maria Socorro Duran Defendant, and to Patricio A. Letelier defendant's

Notice of motion and Motion for order compelling Defendant to Response to First Request for
Interrogatories Set One, Supporting Declaration and Memorandum 1 of 9

1
2 attorney of record:

3
4 NOTICE IS GIVEN that on October 14, 2011 at 2:00 pm, or as soon
5 thereafter as the matter may be heard, in Department 3070 of this court, located
6 at 280 South First St San Jose CA 95113, Plaintiffs will, and hereby does, move
7 the court for an order compelling Maria Socorro Duran Defendant, to serve a
8 response to 6 categories of Interrogatories on Set One served on August 4, 2011
9 by Francisca Delgado and Magdalena Ceja Plaintiffs. And will further move
10 this court for an order requiring Maria Socorro Duran Defendant, and his
11 attorney Patricio A. Letelier to pay a monetary sanction to plaintiffs Francisca
12 Delgado and Magdalena Ceja.
13
14

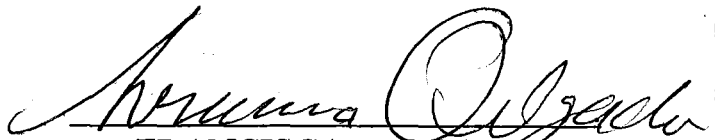
15 The motion will be made on the grounds that Maria Socorro Duran
16 defendant, has failed to serve a timely response to the above-described
17 interrogatories.
18

19 The motion will be based on this notice of motion, on the declaration of
20 plaintiffs Francisca Delgado and Magdalena Ceja, on the memorandum set forth
21 below, on the records on files herein, and on such evidence as may be presented
22 at the hearing of the motion.
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Dated:

September 7, 2011



FRANCISCA DELGADO

Plaintiff "In Pro Per"

1049 BELLHURST AVE

San Jose, CA 95122

Tel: (408)278-1936



MAGDALENA CEJA

Plaintiff "In Pro Per"

1049 BELLHURST AVE

San Jose, CA 95122

Tel: (408)993-9463

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SUPPORTING DECLARATION OF Plaintiffs Francisca Delgado and
Magdalena Ceja.

1. We, Francisca Delgado and Magdalena Ceja, declare that we are the Plaintiffs in this case and hereby make this declaration in support of Plaintiffs' motion for an order compelling Maria Socorro Duran Defendant, to serve a response the first request for interrogatories Set One. The facts stated herein are based on Plaintiffs' personal knowledge.

2. On or about August 4, 2011, Plaintiffs Francisca Delgado and Magdalena Ceja served a first request for interrogatories Set One of certain designated categories of items for the purpose of answering on Defendant Maria Socorro Duran. A true and correct copy of this request and proof of service is attached as Exhibit A and incorporated by reference.

3. To date, September 6, 2011, Francisca Delgado and Magdalena Ceja Plaintiffs, has received no response to these interrogatories.

4. Plaintiffs Francisca Delgado and Magdalena Ceja called Patricio Letelier, (Attorney for Defendant Francisco) to ask that Defendant Maria Socorro Duran to respond to requested interrogatories, but attorney was never available.

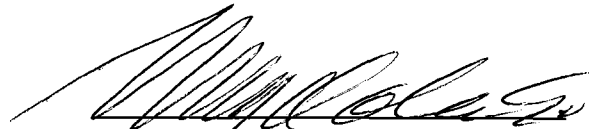
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2 7. Plaintiffs Francisca Delgado and Magdalena Ceja have incurred
3 expenses in trying to obtain requested documents, and bringing this motion.
4

5
6 We declare under penalty of perjury under the laws of the State of California
7 that the foregoing is true and correct.
8

9
10 Dated: September 7 2011
11

12 

13 FRANCISCA DELGADO
14 Plaintiff "In Pro Per"
15 1049 BELLHURST AVE
16 San Jose, CA 95122
17 Tel: (408)278-1936

18 

19 MAGDALENA CEJA
20 Plaintiff "In Pro Per"
21 1049 BELLHURST AVE
22 San Jose, CA 95122
23 Tel: (408)993-9463

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4 FRANCISCA DELGADO and
5 MAGDALENA CEJA
6 "In Pro Per"
7 1049 BELLHURST AVE
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10 Tel: (408)278-1936

11 **UNITED STATES BANKRUPTCY COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **(San Jose)**

14 In re FRANCISCO DE ALBA)
15 MARIA SOCORRO DURAN,) BK CASE NO. 10-60167
16 Aka MARIA D. JAUREGUI) CHAPTER 7
17 Debtors) ADV. PROC. NO. 11-5001
18 FRANCISCA DELGADO)
19 AND MAGDALENA CEJA) MEMORANDUM IN SUPPORT OF
20 PLAINTIFFS,) MOTION FOR ORDER
21) COMPELLING RESPONSE TO
22) INTERROGATORIES AND
23 VS.) FOR MONETARY
24) SANCTION
25)
26 FRANCISCO DE ALBA AND)
27 MARIA SOCORRO DURAN)
28 Aka MARIA D. JAUREGUI)
DEFENDANTS,)
_____) Date: October 14, 2011
Time: 2:00 PM
Dept: 3070
Judge: NOVACK
Action filed: January 3, 2011

THE COURT SHOULD ISSUE AN ORDER COMPELLING MARIA SOCORRO

Notice of motion and Motion for order compelling Defendant to Response to First Request for
Interrogatories Set One, Supporting Declaration and Memorandum 6 of 9

1
2 DURAN TO ANSWER 6 CATEGORIES OF INTERROGATORIES PLAINTIFFS
3 FIRST REQUEST SET ONE. BECAUSE MARIA SOCORRO DURAN FAILED
4 TO SERVE A TIMELY RESPONSE, IF THE MOTION IS GRANTED, THE
5 COURT SHOULD ALSO IMPOSE A MONETARY SANCTION ON THE
6 DEFENDANT MARIA SOCORRO DURAN RESPONDING PARTY, BECAUSE
7 THERE IS NO SHOWING THAT HE ACTED WITH SUBSTANTIAL
8 JUSTIFICATION FOR THE OTHER CIRCUMSTANCE MAKE THE IMPOSITION
9 OF THE SANCTION UNJUST.
10
11

12 **A. Statutory Authority.** A party to whom interrogatories have been
13 directed fails to serve a timely response, the party propounding the
14 interrogatories may move for an order compelling response (Code. Civ.
15 2030.290).
16

17 **B. Burden of Justification on Nonresponding Party.** The service and
18 filing of interrogatories pursuant to Section 2030.010 et seq. of the Code of
19 Civil Procedure places the burden on the interrogated party to respond by
20 answer, the production of writings, or objections. The obligation of response
21 must be satisfied unless excused by a protective order obtained on a factual
22 showing of good cause why no response should be given (*Coriell v. Superior*
23 *Court* (1974 39 Cal. App. 3d 487, 492, 114 Cal. Rptr. 310). 2031.310.
24
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3 **C. Court Must Impose Monetary Sanction Absent Specified**

4 **Findings.** The court must impose a monetary sanction under Code of Civil
5 Procedure Section 2023.030, against any party, person, or attorney who
6 unsuccessfully opposes a motion to compel further responses to an inspection
7 demand, unless it finds that the one subject to the sanction acted with
8 substantial justification or that other circumstances make the imposition of the
9 sanction unjust (Code Civ. Proc. 2023.030(a), 2031.310(h).
10

11
12 **D. Court May Impose Sanctions Despite Lack of Opposition to**

13 **Motion to Compel Discovery.** The court may award sanctions under the
14 Discovery Act in favor of a party who files a motion to compel discovery, even
15 though no opposition to the motion was filed, or opposition to the motion was
16 withdrawn, or the requested discovery was provided to the moving party after
17 the motion was filed (Cal. Rules of Ct., Rule 3.1003(a)
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Dated:

September 7, 2011



FRANCISCA DELGADO

Plaintiff "In Pro Per"

1049 BELLHURST AVE

San Jose, CA 95122

Tel: (408)278-1936



MAGDALENA CEJA

Plaintiff "In Pro Per"

1049 BELLHURST AVE

San Jose, CA 95122

Tel: (408)993-9463

EXHIBIT "A"

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UNITED STATES BANKRUPTCY COURT
SAN JOSE, CALIFORNIA

FRANCISCA DELGADO and
MAGDALENA CEJA
"In Pro Per"
1049 BELLHURST AVE
San Jose, CA 95122
Tel: (408)993-9463
Tel: (408)278-1936

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
(San Jose)**

In re FRANCISCO DE ALBA and)
MARIA SOCORRO DURAN,)
Aka MARIA D. JAUREGUI.)
Debtors)
FRANCISCA DELGADO)
AND MAGDALENA CEJA)
PLAINTIFFS,)
vs.)
FRANCISCO DE ALBA and)
MARIA SOCORRO DURAN,)
Aka MARIA D. JAUREGUI)
DEFENDANTS,)
_____)

BK CASE NO: 10-60167
CHAPTER 7.
ADV. PROC. NO. 11-5001

PLAINTIFFS, FRANCISCA
DELGADO AND MAGDALENA
CEJA, FIRST REUEST FOR
INTERROGATORIES SET ONE
TO DEFENDANT
MARIA SOCORRO DURAN Aka
MARIA D. JAUREGUI

**FIRST REQUEST FOR INTERROGATORIES
SET ONE**

Plaintiffs, Francisca Delgado and Magdalena Ceja First request for Interrogatories Set One.

1
2 **REQUESTING PARTY:** Plaintiffs, Francisca Delgado and Magdalena
3 Ceja.

4 **RESPONDING PARTY:** Defendant/Debtor, Maria Socorro Duran aka
5 Maria D. Jauregui.

6 **SET NUMBER :** ONE
7

8 1. PLEASE TAKE NOTICE that pursuant to Bankruptcy Rule 7033
9 and Federal Rules of Civil Procedures Rule 33, Defendant/Debtor, Francisco De
10 Alba is hereby requested to respond to the requesting party the following
11 interrogatories listed on EXHIBIT "A" attached here to.
12

13 2. Answers must be separately and fully in writing, and mail or
14 deliver said written answers signed under penalty of perjury to the plaintiffs'
15 address 1049 Bellhurst Ave San Jose CA 95122, within (30) days after service
16 of these first Request on you by personal service or by fax, or within 35 days if
17 this Request is served by mail.
18

19 3. Each answer must be as complete and straightforward as the
20 information reasonable available to you, including the information possessed by
21 your attorneys or agents. If the interrogatory cannot be answered completely,
22 answer it to the extent possible.
23

24 4. If you do not have enough personal knowledge to fully answer an
25
26
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28 Plaintiffs, Francisca Delgado and Magdalena Ceja First request for Interrogatories Set One.

2 of 11

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2 interrogatory, say so, but make a reasonable and good faith effort to get the
3
4 information by asking other persons or organizations, unless the information is
5
6 equally available to the asking party.

7 5. Whenever an interrogatory may be answered by referring to a
8
9 document, the document may be attached as an exhibit to the response and
10
11 referred to in the response. If the document has more than one page, refer to the
12
13 page and section where the answer to the interrogatory can be found.

14 6. Whenever an address and telephone number for the same person
15
16 are requested in more than one interrogatory, you are required to furnish them in
17
18 answering only the first interrogatory asking for that information.

19 7. If you are asserting a privilege or making an objection to an
20
21 interrogatory, you must specifically assert the privilege or state the objection in
22
23 your written response.
24
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DEFINITIONS

INCIDENT: Includes the circumstances and events surrounding the alleged breach of contract giving rise to this action or proceeding.

PERSON: Includes a natural person, firm, association, organization, partnership, business, trust, limited liability company, corporation, or public entity.

ADDRESS: Means the street address, including the city, state, and zip code.

DOCUMENT: As used herein, the term "DOCUMENT" means by written, recorded or graphic matter, whether produced, reproduced or stored on paper, cards, tapes, film, electronic facsimile, computer storage devices or any other media and includes, but is not limited to, originals, copies, (with or without notes or changes thereon) and drafts, including but not limited to: papers, books, letters, photographs, objects, tangible things, correspondence, telegrams, cables, telex messages, memoranda, notes, notations, work papers, transcripts, minutes, reports and recordings of telephone or other conversations or of interviews, oral conferences, or of other meetings, affidavits, statements, summaries, opinion, reports, studies, analyses, evaluations, contracts, agreements, journals, statistical records, desk calendars, appointment books

1
2 diaries, lists, tabulations, summaries, sound recordings, computer printouts, data
3
4 processing input and output, microfilms, all other records kept by electronic,
5
6 photographic or mechanical means, and things similar to any of the forgoing
7
8 however denominated.

9 Dated: 8-4-11.

10
11 

12 FRANCISCA DELGADO

13 Plaintiff "In Pro Per"

14 1049 BELLHURST AVE

15 San Jose, CA 95122

16 Tel: (408)278-1936

17
18 

19 MAGDALENA CEJA

20 Plaintiff "In Pro Per"

21 1049 BELLHURST AVE

22 San Jose, CA 95122

23 Tel: (408)993-9463

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28 Plaintiffs, Francisca Delgado and Magdalena Ceja First request for Interrogatories Set One.

5 of 11

EXHIBIT "A"

The following interrogatories must be answered and documents provided that support your answer(s).

1.0 Identity of Persons Answering These Interrogatories.

1.1 State the name and **ADDRESS**, telephone number, and relationship to you of each **PERSON** who prepared or assisted in the preparation of the responses to these interrogatories.

2.0 General Background Information-individual

2.1 State:

- (a) Your name;
- (b) Every name you have used in the past;
- (c) Every social security number used in the past; and
- (d) The dates you used each name.

2.2 State:

- (a) Your present residence **ADDRESS**;
- (b) Your residence **ADDRESS** for the past five years and the dates you lived at each **ADDRESS**.

2.3 State:

Plaintiffs, Francisca Delgado and Magdalena Ceja First request for Interrogatories Set One.

1
2 (a) The name, **ADDRESS**, and telephone number of your present
3 employer or place of self-employed: and
4

5 (b) The name, **ADDRESS**, dates of employment, job title, and
6 nature of work for each employer or self-employment you
7 have had within five years.
8

9 2.4 Have you ever been convicted of a felony? If so, for each
10 conviction state:
11

12 (a) The city and state where you were convicted;

13 (b) The date of conviction;

14 (c) The offence; and

15 (d) The court and case number.
16
17

18 **3.0 Denials and Special or Affirmative Defenses**
19

20 3.1 Identify each denial of a material allegation and each special
21 or affirmative defense in your pleading and for each:

22 (a) State all facts upon which you base the denials or special or
23 affirmative defense;
24

25 (b) State the names, **ADDRESS**, and telephone numbers of all
26 **PERSONS** who have knowledge of those facts; and
27

- 1
- 2
- 3 (c) Identify all **DOCUMENTS** and other tangible things that support
- 4 your denial or special or affirmative defense; and state the name,
- 5 **ADDRESS**, and telephone number of the **PERSON** who has each
- 6 **DOCUMENT**.
- 7
- 8

9 **4.0 Responses to Request for Admissions**

10 4.1 Is your response to each request for admission an unqualified

11 admission? If not, for each response that is not an

12 unqualified admission:

13

- 14 (a) State the number of the request;
- 15
- 16 (b) State all facts upon which you base your response;
- 17
- 18 (c) State the names, **ADDRESSES** and telephone numbers of all
- 19 **PERSON** who have knowledge of those facts and
- 20 (d) Identify all **DOCUMENTS** and other tangible things that support
- 21 your response and state the name, **ADDRESS** and telephone
- 22 number of the **PERSON** who has each **DOCUMENT** or thing.
- 23
- 24
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3 **5.0 Other Claims and Previous Claims**

4 5.1 Except for this action, in the past 10 years have you filed an action
5 or made a written claim? If so, for each action, claim, or demand
6 state:
7

- 8 (a) The name, **ADDRESS**, and telephone number of each **PERSON**
9 against whom the claim or demand was made in the action filed.
10
11 (b) The court, name of the parties, and case number of any action filed.
12
13 (c) The name **ADDRESS**, and telephone number of any attorney
14 representing you;
15
16 (d) Whether the claim or action has been resolved or is pending; and
17
18 (e) A description of the case.

19 **6.0 Contract**

20 6.1 For each agreement alleged in the pleadings:

- 21 (a) Identify each **DOCUMENTS** that is part of the agreement; and
22 state the name, **ADDRESS**, and telephone number of each
23 **PERSON** who has the **DOCUMENTS**.
24
25 (b) State each part of the agreement not in writing, the name,
26 **ADDRESS**, and telephone number of each **PERSON** agreeing to
27

1
2 that provision, and the date that part of the agreement was made;

3
4 (c) Identify all documents that evidence any part of the agreement not
5 in writing and for each state the name, **ADDRESS**, and telephone
6 number of each **PERSON** who has the **DOCUMENTS**;

7
8 6.2 Was there a breach of any agreement alleged in the pleading? If so,
9 for each breach describe and give the date of every act or omission
10 that you claim is the breach if the agreement.

11
12 6.3 Was performance of any agreement alleged in the pleading
13 excused? If so, identify each agreement excused and state why
14 performance was excused.

15
16 6.4 Was any agreement alleged in the pleadings terminated by mutual
17 agreement, release, accord and satisfaction or novation? If so,
18 identify each agreement terminated, the date of termination and the
19 basis of the termination;

20
21 6.5 Is any agreement alleged in the pleadings unenforceable? If
22 so, identify each unenforceable agreement and state why it is
23 unenforceable.

24
25 6.7 Is any agreement alleged in the pleading ambiguous? If so,
26 identify each ambiguous agreement and state why it is ambiguous;
27

1
2
3 **DECLARATION**
4

5 We, Francisca Delgado, and Madgalena Ceja declare:
6

- 7 1. We are parties to this action.
8 2. We are requesting to Defendant/Debtor, Maria Socorro Duran aka Maria
9 D. Jauregui the attached set of interrogatories.
10

11 Dated: 8-4-11.
12


13

14 FRANCISCA DELGADO

15 Plaintiff "In Pro Per"

16 1049 BELLHURST AVE

17 San Jose, CA 95122

18 Tel: (408)278-1936
19

20 _____
21 MAGDALENA CEJA

22 Plaintiff "In Pro Per"

23 1049 BELLHURST AVE

24 San Jose, CA 95122

25 Tel: (408)993-9463
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Plaintiffs, Francisca Delgado and Magdalena Ceja First request for Interrogatories Set One.

11 of 11

1
2 **CERTIFICATE OF SERVICE**
3

4 **Case name:** Francisca Delgado and Magdalena Ceja vs. Francisco
5 De Alba and Maria D. Jauregui.

6 **Case number:** BK CASE No: 10-60167
7 Adversary Case # 11-5001
8

9 **What Documents were served?** FIRST REQUEST FOR
10 INTERROGATORIES SET
11 ONE FOR MARIA
12 SOCORRO DURAN AKA
13 MARIA JAUREGUI

14 **How was the document served?** Personal delivered.

15 **To whom was the document sent?** Patricio A. Letelier (Attorney
16 for Defendants
17 870 North First St
18 San Jose Ca 95112
19 Telephone: 408-924-0933
20 Fax: 408-924-0877

21 **When were the documents served?** 08/04/2011

22 I declare under penalty of perjury under the laws of the United
23 States of America that the information in this certificate of service is
24 true and correct.

25 **Signature:** Eric Granados

26 **Printed name:** ERIC GRANADOS

27 **Address:** 1049 BELLHURST AVE SAN JOSE CA 95122
28